

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO VEGA, JR.,  
Plaintiff,  
v.  
M. SOTO, et al.,  
Defendants.

Case No. 1:22-cv-00471-EPG (PC)

FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT PLAINTIFF'S  
APPLICATION TO PROCEED *IN FORMA*  
*PAUPERIS* BE DENIED

(ECF Nos. 2, 6)

OBJECTIONS, IF ANY, DUE WITHIN  
TWENTY-ONE DAYS

ORDER DIRECTING CLERK TO ASSIGN  
DISTRICT JUDGE

Plaintiff Francisco Vega, Jr. is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

Plaintiff filed the complaint commencing this action on April 21, 2022. (ECF No. 1). On that same day, Plaintiff filed an application to proceed *in forma pauperis*. (ECF No. 2).

According to Plaintiff's prisoner trust fund account statement, Plaintiff's balance as of the date of the last transaction on April 21, 2022, was \$1086.07. (ECF No. 6, p. 1). This is more than enough to pay the \$402.00 filing fee. Additionally, Plaintiff's IFP application lists no persons who depend on his support. Accordingly, the Court finds that Plaintiff, who is a state

prisoner, can afford to pay the filing fee for this action.<sup>1</sup>

Because Plaintiff can afford to pay the filing fee for this action, the Court will recommend that Plaintiff's application to proceed *in forma pauperis* be denied and that Plaintiff be required to pay the filing fee of \$402.00 for this action in full.

Based on the foregoing, the Court HEREBY RECOMMENDS that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 2) be denied; and
2. Plaintiff be directed to pay the \$402.00 filing fee in full if he wants to proceed with this action.

These findings and recommendations will be submitted to the United States district judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty-one (21) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

\\

\\

\\

\\

---

<sup>1</sup> The Court notes that it is possible that at least some of the funds in Plaintiff's account could be from an economic impact payment. However, Plaintiff has not cited to any law, and the Court is not aware of any, preventing pandemic stimulus payments from being included when determining whether a plaintiff can afford to pay the filing fee. Additionally, other courts in this district have included the funds when making the determination. *See, e.g., Hammler v. Zydus Pharmacy*, 2021 WL 3048380, at \*1-2 (E.D. Cal. July 20, 2021) (considering the plaintiff's "economic impact payments" when determining that the plaintiff was "financially able to pay the filing fee"); *Corral v. California Highway Patrol*, 2021 WL 2268877, at \*1 (E.D. Cal. June 3, 2021), *report and recommendation adopted*, 2021 WL 3488309 (E.D. Cal. Aug. 9, 2021) (considering the plaintiff's "pandemic stimulus payments" in determining that the "plaintiff has made an inadequate showing of indigency").

1           Additionally, IT IS ORDERED that the Clerk of Court is directed to assign a district  
2 judge to this case.

3  
4 IT IS SO ORDERED.

5       Dated: **April 25, 2022**

/s/ Eric P. Grogan  
6 UNITED STATES MAGISTRATE JUDGE